

1
2 **UNITED STATES DISTRICT COURT**
3 **SOUTHERN DISTRICT OF CALIFORNIA**
4

5 **SECURITIES AND EXCHANGE**
6 **COMMISSION,**

7 Plaintiff,

8 vs.

9 **STRATEGIC GLOBAL**
10 **INVESTMENTS, INC. AND**
11 **ANDREW T. FELLNER,**

12 Defendants.

Case No.: 16-cv-00514-JLB-WVG

ORDER GRANTING PLAINTIFF'S
MOTION FOR A FINAL JUDGMENT
OF PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
DEFENDANT ANDREW T. FELLNER

[ECF No. 45]

This case comes before the Court upon the Motion by Plaintiff Securities and Exchange Commission for a Judgment of Permanent Injunction and Other Relief against Defendant Andrew T. Fellner (“Defendant”) (“Motion for Final Judgment”). The Commission having filed a Complaint; and Defendant having entered a general appearance, consented to the Court’s jurisdiction over Defendant and the subject matter of this action, consented to entry of this Final Judgment, waived findings of fact and conclusions of law, and waived any right to appeal from this Final Judgment; and the Court having reviewed the Final Judgment and finding it fair, adequate and reasonable, hereby **GRANTS** the motion and enters Final Judgment as follows:

1 **I. SECTION 17(a)(2) OF THE SECURITIES ACT OF 1933**

2 **IT IS HEREBY ORDERED AND ADJUDGED** that Defendant is
3 permanently restrained and enjoined from violating or aiding and abetting the violation
4 of Section 17(a)(2) of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. §
5 77q(a)(2), in the offer or sale of any security by the use of any means or instruments of
6 transportation or communication in interstate commerce or by use of the mails, directly
7 or indirectly to obtain money or property by means of any untrue statement of a
8 material fact or any omission of a material fact necessary in order to make the
9 statements made, in light of the circumstances under which they were made, not
10 misleading.

11 **IT IS FURTHER ORDERED AND ADJUDGED** that, as provided in Federal
12 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who
13 receive actual notice of this Final Judgment by personal service or otherwise: (a)
14 Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons
15 in active concert or participation with Defendant or with anyone described in (a).

16 **II. SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934**

17 **IT IS FURTHER ORDERED AND ADJUDGED** that Defendant is
18 permanently restrained and enjoined from directly or indirectly violating or aiding or
19 abetting the violation of Section 10(b) of the Securities Exchange Act of 1934 (the
20 “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5(b) promulgated thereunder, 17
21 C.F.R. § 240.10b-5(b), by using any means or instrumentality of interstate commerce,
22
23
24
25
26
27
28

1 or of the mails, or of any facility of any national securities exchange, in connection
2 with the purchase or sale of any security to make any untrue statement of a material
3 fact or to omit to state a material fact necessary in order to make the statements made,
4 in the light of the circumstances under which they were made, not misleading.
5

6 **IT IS FURTHER ORDERED AND ADJUDGED** that, as provided in Federal
7 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who
8 receive actual notice of this Judgment by personal service or otherwise: (a)
9 Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons
10 in active concert or participation with Defendant or with anyone described in (a).
11

12 **III. OFFICER AND DIRECTOR BAR**

14 **IT IS FURTHER ORDERED AND ADJUDGED** that, pursuant to Section
15 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and Section 21(d)(2) of the Exchange
16 Act, 15 U.S.C. § 78u(d)(2), Defendant is prohibited from acting as an officer or director
17 of any issuer that has a class of securities registered pursuant to Section 12 of the
18 Exchange Act, 15 U.S.C. § 78l, or that is required to file reports pursuant to Section
19 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).
20

22 **IV. PENNY STOCK BAR**

24 **IT IS FURTHER ORDERED AND ADJUDGED** that Defendant is
25 permanently barred from participating in an offering of penny stock, including
26 engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading,
27 or inducing or attempting to induce the purchase or sale of any penny stock. A penny
28

stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

V. CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Defendant shall pay to the Commission a civil penalty of \$160,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall make this payment within 14 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Defendant as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

1 Defendant shall simultaneously transmit photocopies of evidence of
2 payment and case identifying information to Glenn Gordon, Associate Regional
3 Director of the SEC-Miami Regional Office. By making this payment, Defendant
4 relinquishes all legal and equitable right, title, and interest in such funds and no part of
5 the funds shall be returned to Defendant. Defendant shall pay post-judgment interest
6 on any delinquent amounts pursuant to 28 USC § 1961.
7

8 **VI. INCORPORATION OF CONSENT**

9 **IT IS FURTHER ORDERED AND ADJUDGED** that the Consent is
10 incorporated herein with the same force and effect as if fully set forth herein, and that
11 Defendant shall comply with all of the undertakings and agreements set forth therein.
12

13 **VII. BANKRUPTCY NONDISCHARGEABILITY**

14 **IT IS FURTHER ORDERED AND ADJUDGED** that, for purposes of
15 exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §
16 523, the allegations in the complaint are true and admitted by Defendant, and further,
17 any debt for civil penalty or other amounts due by Defendant under this Judgment or
18 any other judgment, order, consent order, decree or settlement agreement entered in
19 connection with this proceeding, is a debt for the violation by Defendant of the federal
20 securities laws or any regulation or order issued under such laws, as set forth in Section
21 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).
22
23
24
25

1 **VIII. RETENTION OF JURISDICTION**

2
3 **IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain
4 jurisdiction of this matter for the purposes of enforcing the terms of this Final
5 Judgment.

6 **IT IS SO ORDERED.**

7
8 Dated: September 22, 2017

9
10 
Hon. Jill L. Burkhardt
United States Magistrate Judge

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28